

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANDREW K. BONNER, JR.,
Plaintiff,
v.
JUSTIA INCORPORATED,
Defendant.

:
: NO. 3:18-cv-09187-PGS-LHG
:
: ORDER DENYING PLAINTIFF'S
: MOTION TO SEAL COURT ORDER
: REGARDING JUSTIA, INC.'S
: MOTION TO DISMISS AMENDED
: COMPLAINT PURSUANT TO FED.
: R.C.P. 12(b)(6)

This matter having been brought before the Court on Plaintiff's Motion to Seal the Court Order regarding Defendant Justia, Inc.'s Motion to Dismiss Plaintiff's Amended Complaint for Failure to State a Claim pursuant to Federal Rule of Civil Procedure 12(b)(6); and the Court having reviewed and considered Defendant's Response in Opposition to the Motion to Seal; and the Court having heard and considered the oral argument of the parties, and for the reasons stated on the record, if any; and good cause having been shown, it is on this _____ day of _____, 2019,

ORDERED that Plaintiff's Motion to Seal is **DENIED**; and

IT IS FURTHER ORDERED that a copy of this Order be served upon all counsel of record and all parties within _____ days from the date it is received by Plaintiff.

Hon. Peter G. Sheridan, U.S.D.J.

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NO. 3:18-cv-09187-PGS-LHG

**DEFENDANT JUSTIA, INC.'S RESPONSE TO PROFESSOR EUGENE VOLOKH'S
MOTIONS FOR LEAVE TO APPEAR *PRO SE* AND INTERVENE AND RESPONSE IN
OPPOSITION TO PLAINTIFF'S MOTION TO SEAL**

Defendant Justia, Inc., by and through its counsel, Lewis Brisbois Bisgaard & Smith, LLP, hereby responds to Professor Eugene Volokh's Motions for Leave to Appear *Pro Se* and Intervene and Plaintiff's Motion to Seal as follows:

I. Professor Volokh's Motions

Justia does not oppose Professor Volokh's motions. Justia has no objection to Professor Volokh intervening *pro se* in this matter on the limited issue regarding Plaintiff's Motion to Seal any Order issued regarding Justia's Motion to Dismiss the Amended Complaint.

II. Plaintiff's Motion to Seal

Justia opposes Plaintiff's Motion to Seal the Order regarding its Motion to Dismiss Plaintiff's Amended Complaint pursuant to Fed. R.C.P. 12(b)(6). The public has a First Amendment and common law right of access to court records, including those in civil cases. *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1071 (3d Cir. 1984). This is especially so for court orders, as "it should go without saying that the judge's opinions and orders belong in the public domain." *Union Oil Co. of California v. Leavell*, 220 F.3d 562, 568 (7th Cir. 2000). "The Court's decisions are

adjudications – direct exercises of judicial power, the reasoning and substantive effect of which the public has an important interest in scrutinizing.” *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 612 (S.D. N.Y. 1998).

To seal court records, the party seeking to prevent disclosure must show **both** that the information is the type typically protected by the courts **and** that there is “good cause” to seal the records. *Zenith Radio Corp. v. Matsushita Electric Industrial Co.*, 529 F. Supp. 866, 890 (E.D. Pa. 1981).

The information contained in any potential Order regarding Justia’s Motion to Dismiss will merely discuss the Court’s decision regarding the motion. This information is not protected by the Courts. The information that will be contained in the Order does not involve: (1) national security and government classified information, *United States v. Keonna Thomas Philly Declaration, L.L.C.*, 905 F.3d 276, 283; (2) grand jury proceedings, *United States v. Chang*, 47 Fed. Appx. 119; (3) minors who are parties to an action; (4) personal identifiers, such as social security numbers, taxpayer identification, bank account information, etc.; and (5) initial filings under the False Claims Act. As the information that will be contained in the Order is not protected by the Courts, the Order regarding Justia’s Motion to Dismiss must not be sealed and should be filed on the court dockets.

In addition, Plaintiff cannot establish good cause for sealing the Order. “Good cause is established on a showing that the disclosure will work a clearly defined serious injury” to the moving party or to a third party. *Publicker Industries, Inc.* at 1071. Plaintiff has not provided any evidence that not sealing the Order will cause a clearly defined serious injury. Plaintiff does not want the public to see information about cases that he has been litigating. However, “[o]nce a matter is brought before a court for resolution, it is no longer solely the parties’ case, but also the public’s case.” *Brown v. Advantage Eng’g, Inc.*, 960 F.2d 1013, 1016 (11th Cir. 1992). Plaintiff also argues

that the Order should be sealed to avoid “another object of grievance between the two parties.” This is the same incorrect argument that is the basis of the Amended Complaint, i.e., the Order is Plaintiff’s personal property and cannot be shared with the public. As Plaintiff has failed to establish good cause for sealing the Order, the Order must not be sealed.

Finally, even though Plaintiff has not provided any evidence to seal any Order issued by the Court regarding the Motion to Dismiss, Justia is willing to have an Order sealed **only if** Plaintiff voluntarily dismisses the Amended Complaint against Justia, with prejudice. Otherwise, Justia respectfully requests that the Order not be sealed and docketed accordingly.

III. RELIEF REQUESTED

Defendant Justia, Inc. does not oppose Professor Volokh’s Motions to Appear *Pro Se* and Intervene in this matter. Justia respectfully requests that this Honorable Court deny Plaintiff’s Motion to Seal the Order regarding its Motion to Dismiss the Amended Complaint pursuant to Fed. R.C.P. 12(b)(6) unless Plaintiff is willing to voluntarily dismiss the Amended Complaint against Justia, with prejudice.

Respectfully submitted,

LEWIS, BRISBOIS, BISGAARD &
SMITH LLP

By: /s/ Ryan F. Michaleski
Eric J. Bronstein, Esquire
Ryan F. Michaleski, Esquire
550 E. Swedesford Road, Suite 270
Wayne, PA 19087

*Attorneys for Defendant
Justia Inc.*

Dated: April 16, 2019

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CERTIFICATE OF SERVICE

I, Ryan F. Michaleski, Esquire, hereby certify that, on this date, I caused to be served the foregoing Response to Motions via ECF Filing upon the following:

Andrew K. Bonner, Jr.
719 Irving Avenue
Bridgeton, NJ 08302
(via Federal Express)

Professor Eugene Volokh
University of California, Los Angeles
School of Law
405 Hilgard Avenue
Los Angeles, CA 90095-1476
(via electronic mail)

/s/ Ryan F. Michaleski

Ryan F. Michaleski, Esquire

Dated: April 16, 2019